

**MINUTES OF THE OPEN SESSION
OF THE RHODE ISLAND ETHICS COMMISSION**

January 12, 2016

The Rhode Island Ethics Commission held its 1st meeting of 2016 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, January 12, 2016, pursuant to the notice published at the Commission offices, the State House Library, and electronically with the Rhode Island Secretary of State.

The following Commissioners were present:

Ross Cheit, Chair	Mark B. Heffner
John D. Lynch, Jr., Vice Chair	James V. Murray
Robert A. Salk, Secretary	Marisa A. Quinn

Also present were Edmund L. Alves, Jr., Commission Legal Counsel*; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason Gramitt, Education Coordinator/Staff Attorney; Staff Attorneys Teresa Giusti and Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca.

At 9:07 a.m., the Chair opened the meeting. The first order of business was:

Approval of minutes of the Open Session held on December 8, 2015.

Upon motion made by Commissioner Salk and duly seconded by Commissioner Heffner, it was

VOTED: To approve minutes of the Open Session held on December 8, 2015.

AYES: Marisa A. Quinn; Robert A. Salk; Mark B. Heffner; Ross Cheit.

ABSTENTIONS: James V. Murray; John D. Lynch, Jr.

The next order of business was:

Advisory Opinions.

The advisory opinions were based on draft advisory opinions prepared by Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date.

The first advisory opinion was that of:

David A. Salvatore, a member of the Providence City Council, who until recently was also a Policy Analyst for the Rhode Island House of Representatives,

requesting an advisory opinion regarding the application of the Code of Ethics in light of his new private employment as the Director of Government Affairs for the Rhode Island Association of Realtors (“Association”).

Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. In response to Commissioner Quinn, the Petitioner replied that the Association has not frequently appeared before the Providence City Council but, out of an abundance of caution, he requested this advisory opinion. He also stated that he understood the nature of the Association’s governance structure. Upon motion made by Commissioner Quinn and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to David A. Salvatore, a member of the Providence City Council.

The next advisory opinion was that of:

Timothy A. Williamson, Esq., a part-time attorney for the Judiciary Committee of the Rhode Island House of Representatives, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from seeking and, if nominated, accepting an appointment to serve as an Associate Judge of the Rhode Island District Court.

[Reporter’s Note: Commissioner Lynch recused from the Commission’s consideration of this advisory opinion. He was not present in the room while it was discussed.]

Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. In response to Commissioner Heffner, the Petitioner stated that he adopts all of the factual representations set forth in the advisory opinion. In response to Commissioner Quinn, the Petitioner replied that the House Judiciary Committee has no role in District Court appointments, which are subject to the advice and consent of the Senate. The Petitioner stated that if he was appointed to the District Court he would resign from his part-time position with the House Judiciary Committee.

Discussion ensued about the nature of the Petitioner’s interactions with members of the House Judiciary Committee, which the Petitioner stated are minimal and generally limited to answering legal questions during the Committee’s televised public meetings. He informed that for each Committee meeting he reviews the legislation on the agenda, prepares to answer questions from the members and 95% of the time he is never asked a question. Staff Attorney Gramitt stated that the Petitioner’s answering of legal questions from the Committee members regarding proposed legislation does not rise to the level of a senior policy-making, senior confidential or senior discretionary staff member of the House of Representatives. Commissioner Quinn noted that what is important here is the nature of the Petitioner’s interactions with members of the House, not the fact that he has some interactions with them. In response to Chair Cheit, the Petitioner stated that his role as a Committee attorney is not a typical attorney/client relationship because most of the legal opinions that he provides are given during a public meeting and, therefore, are not confidential.

Chair Cheit questioned whether there was any legislative history for Rhode Island General Laws § 36-14-5(o) related to the intent of the section to shed light on what this provision was intended to accomplish. Staff Attorney Gramitt replied that when the section was originally enacted there would have been a Legislative Council explanation, but the committee hearings where the statute would have been discussed are not transcribed. He further noted that the Rhode Island Supreme Court has stated that this type of legislative history will not be used to determine the meaning or intent of a statute. Upon motion made by Commissioner Quinn and duly seconded by Commissioner Murray, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Timothy A. Williamson, Esq., a part-time attorney for the Judiciary Committee of the Rhode Island House of Representatives.

[Reporter's Note: Commissioner Lynch returned to the Commission meeting room and was present for the remainder of the meeting.]

The next advisory opinion was that of:

Charles A. Collins, Jr., a member of the Scituate Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from participating in the Town Council's consideration of a tax stabilization agreement for the Hope Mill, given that he owns two rental properties within close proximity of the Hope Mill.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Upon motion made by Commissioner Murray and duly seconded by Commissioner Quinn, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Charles A. Collins, Jr., a member of the Scituate Town Council.

The next advisory opinion was that of:

Christopher B. Frenier, a probation and parole officer at the Rhode Island Department of Corrections, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from working in his private capacity as a facilitator of a batterer intervention program at Rhode Island Batterer's Intervention Program ("RIBIP").

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Commissioner Lynch asked what would happen if the Petitioner had to leave his private employment at RIBIP to handle an emergency involving one of the parolees on his caseload. Staff Attorney Stewart replied that the Petitioner stated that such an event was unlikely, but if it was necessary for him to leave, he would be able to reschedule that class to ensure that the disruption would not have a negative impact upon the persons in the batterer intervention class,

who are required to attend a certain number of sessions. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Salk, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Christopher B. Frenier, a probation and parole officer at the Department of Corrections.

The next advisory opinion was that of:

Jennifer Spellman, a probation and parole officer at the Rhode Island Department of Corrections, requesting an advisory opinion regarding whether the Code of Ethics prohibits her from working in her private capacity as a facilitator of a batterer intervention program at Rhode Island Batterer's Intervention Program.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Jennifer Spellman, a probation and parole officer at the Department of Corrections.

The final advisory opinion was that of:

Jovina Vales, a probation and parole officer at the Rhode Island Department of Corrections, requesting an advisory opinion regarding whether the Code of Ethics prohibits her from working in her private capacity as a facilitator of a batterer intervention program at Rhode Island Batterer's Intervention Program.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Upon motion made by Commissioner Murray and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Jovina Vales, a probation and parole officer at the Department of Corrections.

The next order of business was:

Director's Report.

Executive Director Willever reported that there were eight (8) complaints and one (1) advisory opinion pending. He stated that three (3) of the complaints were staff-initiated for the failure to timely file financial disclosure statements. He stated that eleven (11) APRA requests were granted since the last meeting, ten (10) of which were completed within one (1) business day, and one (1) was completed in three (3) business days because it required retrieving records from storage.

Executive Director Willever also reported that Steven T. Cross, Chief of Investigations recently conducted a security training for the Commission staff, reviewing safety procedures in the event of a fire or other emergency.

The next order of business was:

Executive Session.

At 10:14 a.m., upon motion made by Commissioner Heffner and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To go into Executive Session, to wit:

1. Motion to approve the minutes of the Executive Session held on December 8, 2015.
2. In re: Bernard A. Hawkins, Complaint No. 2015-8, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).
3. In re: Charles E. Millard, Complaint No. 2015-6, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).
4. In re: Antonio S. Fonseca, Complaint No. 2015-9, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

*Legal Counsel Alves left the meeting at 10:14 a.m. upon recusing from all three complaint matters scheduled for Executive Session: In re: Bernard A. Hawkins, Complaint No. 2015-8; In re: Charles E. Millard, Complaint No. 2015-6; and In re: Antonio S. Fonseca, Complaint No. 2015-9. He did not return to the meeting.

The Commission reconvened in Open Session at approximately 10:53 a.m. Upon motion made by Commissioner Lynch and duly seconded by Commissioner Murray, it was unanimously

VOTED: To seal the minutes of the Executive Session held on January 12, 2016.

The next order of business was:

Report on Actions Taken in Executive Session.

Chair Cheit reported that the Commission took the following actions in Executive Session:

1. Voted to approve the minutes of the Executive Session held on December 8, 2015.
[Reporter's note – The vote was as follows:
AYES: Marisa A. Quinn; Robert A. Salk; Mark B. Heffner; Ross Cheit.
ABSTENTIONS: James V. Murray; John D. Lynch, Jr.]

2. Voted (5-1) to approve an Informal Resolution & Settlement, as amended, in the matter of In re: Bernard A. Hawkins, Complaint No. 2015-8.
[Reporter's note – The vote was as follows:
AYES: James V. Murray; John D. Lynch, Jr.; Robert A. Salk; Mark B. Heffner; Ross Cheit.
NOES: Marisa A. Quinn.]
3. In the matter of In re: Charles E. Millard, Complaint No. 2015-6, unanimously voted (6-0) to find that probable cause does not exist to believe that the Respondent violated the Code of Ethics as alleged in the Complaint. Therefore, the Complaint was dismissed with prejudice.
4. Unanimously voted (6-0) to initially determine that the facts alleged in In re: Antonio S. Fonseca, Complaint No. 2015-9, if true, are sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

The final order of business was:

New Business

There being none, at 10:55 a.m., upon motion made by Commissioner Lynch and duly seconded by Commissioner Salk, it was unanimously

VOTED: To adjourn.

Respectfully submitted,

Robert A. Salk
Secretary